

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Elizabeth Johnson	Team: Team # 6	CCRB Case #: 200909570	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/16/2009 8:18 AM	Location of Incident: 755 Flushing Avenue	Precinct: 79	18 Mo. SOL 12/16/2010	EO SOL 12/16/2010	
Date/Time CV Reported Tue, 06/16/2009 8:42 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/19/2009 1:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Maurice Fyffe	27871	936629	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andy Scantlebury	03699	937500	079 PCT
2. POM Oscar Palomino	09642	942321	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Maurice Fyffe	Discourtesy: PO Maurice Fyffe spoke obscenely to § 87(2)(b)	

Case Summary

On June 16, 2009, § 87(2)(b) was connected to the IAB Command Center in order to file this complaint (encl. 3). On June 19, 2009, the CCRB received this complaint via the IAB, log number 09-29924 (encl. 4).

On June 16, 2009, at approximately 8:18am, § 87(2)(b) stopped his vehicle in a no standing zone in front of the entrance to § 87(2)(b) Hospital, located at 755 Flushing Avenue in Brooklyn. § 87(2)(b) was approached by four uniformed officers, resulting in the following allegation:

Allegation A- Discourtesy: PO Maurice Fyffe spoke obscenely to § 87(2)(b)

§ 87(2)(g)

On June 23, 2009, the case was originally assigned to Investigator Abigail Carr. On January 15, 2010, the case was reassigned to the undersigned upon Investigator Carr's departure from the agency.

Although both mediation and investigation were discussed with § 87(2)(b) he stated that he preferred to have his case investigated, primarily because he was not interested in investing in the case and did not want to have additional involvement with the case or appear at the CCRB.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a white male § 87(2)(b)

IAB Intake CD

On June 16, 2009, § 87(2)(b) contacted 911 and was connected to the IAB Command Center during which he stated that he was approached by three black male officers and a Hispanic male officer from the 79th Precinct in vehicle number 1581. § 87(2)(b) identified PO Palomino, shield number 9642, who he specified was the Hispanic male officer, and also identified PO Fyffe, shield 27871, PO Scantlebury, shield 3699. § 87(2)(b) was upset during the call, both raising his voice and speaking rapidly as he stated that the officers called him "idiot and retard," but he did not specify which officer did so. § 87(2)(b) disputed the legitimacy of the summons and stated that he was not blocking traffic, nor was he double parked. The IAB investigator asked the 911 for a job number, for which she stated that none was given (encl. 5).

CCRB Testimony

On July 10, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 6a-d). His statement is generally consistent with that of his original complaint, with discrepancies noted. On June 16, 2009, at approximately 8:18am, § 87(2)(b) drove his wife, § 87(2)(b) § 87(2)(b) who was due for an emergency C-section, to § 87(2)(b) located at 755 Flushing Avenue in Brooklyn, and stopped his car in front of the emergency room entrance. § 87(2)(b)'s mother-in-law, as well as his sister-in-law, § 87(2)(b) with her § 87(2)(b) infant were also in the vehicle. § 87(2)(b) stated that there is a ramp leading to the emergency room entrance and that the area was designated as a "No standing zone," but stated that he was not in blocking the ramp entrance and his vehicle was not interfering traffic. § 87(2)(b)'s wife and mother-in-law exited

the car and entered the hospital, as he exited and opened the trunk to retrieve a baby carriage for § 87(2)(b) and her infant.

As § 87(2)(b) was lifting the carriage from the trunk of his vehicle, four uniformed officers in a marked patrol car arrived to the location. These officers were identified through the investigation as PO Maurice Fyffe, PO Oscar Palomino, PO Andy Scantlebury and the fourth officer (PO1) remained unidentified. PO Fyffe was described as a black male who was approximately 5'11" to 6'0" and 200 pounds with short black hair and tattoos on both of his forearms. He appeared to be in his thirties. PO Palomino was described as a Hispanic male who was approximately 5'5" and a medium build of about 170 pounds. He had spiky dark hair and also may have had tattoos on his arms. PO Andy Scantlebury and PO1 were described as black males who were approximately 5'11" and 190 pounds with short hair.

§ 87(2)(b) had not observed any emergency lights, nor had he heard any sirens or instructions prior to the officers' approach. PO Fyffe exited either the driver's seat or front passenger's seat of the patrol car and ran up to § 87(2)(b) and said, "You're a fucking idiot, you're an asshole. You can't park here, you're blocking the entrance and we have an emergency."

PO Palomino, PO Scantlebury and PO1 approached. § 87(2)(b) attempted to explain to the four officers why he had stopped his vehicle and that he was not blocking traffic. PO Fyffe said to § 87(2)(b) "You're a piece of shit," and told him that he did not have an excuse. PO Fyffe instructed § 87(2)(b) to move his vehicle out of the no standing zone, with which § 87(2)(b) complied, and exited his vehicle again to stand on the sidewalk.

§ 87(2)(b) told PO Fyffe that the officers could have driven around his vehicle, but as his wife was giving birth he needed to go into the hospital and that if he needed to write a summons, to do so. § 87(2)(b) acknowledged that he was anxious because he wanted to go inside, but he did not curse or raise his voice at the officers at any time. PO Fyffe asked § 87(2)(b) for his license and registration, which § 87(2)(b) provided, and he exited his vehicle to stand on the sidewalk. § 87(2)(b) asked PO Fyffe, "My brother-in-law is just trying to get stuff out of the car, why do you have to write him a summons?" § 87(2)(b) stated that § 87(2)(b) later informed him that PO Fyffe told her that she could be arrested for interfering, but he stated he did not witness PO Fyffe make this statement.

For approximately 30 minutes, the four officers discussed the summons and how it should be written. The officers appeared to hand the summons book among each other several times, and § 87(2)(b) was unable to observe which officer physically completed the summons. As the officers discussed the summons, § 87(2)(b) used his cell phone to call 911 and asked for a supervisor to respond. § 87(2)(b) was connected to the IAB Command Center, during which he filed a complaint regarding the incident. § 87(2)(b) told the officers that he wanted their shield numbers as he felt that they were abusing their authority, and informed them that he intended on filing a complaint. § 87(2)(b) told the officers that if he were black or Hispanic he would have been treated differently, and PO Fyffe agreed. § 87(2)(b) read the officers' names and shield numbers from their badges and provided their information to IAB during his original complaint, but was unable to recall their information at the time of his interview.

PO Palomino handed § 87(2)(b) a summons for § 87(2)(a) 160.50. The officers entered their vehicle and drove away. § 87(2)(b) got in his car to move his vehicle and noticed an additional summons in the windshield. § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Attempts to Contact Witnesses

§ 87(2)(b) stated that his interaction with police officers was observed by his sister-in-law, § 87(2)(b). However, § 87(2)(b) was unable to provide § 87(2)(b)'s address and stated that she did not have either a home or cell phone number. Although § 87(2)(b) was asked to obtain § 87(2)(b)'s address, he was unable to provide this information during subsequent telephone calls. Searches of Lexis Nexis and the Internet did not yield any contact information pertaining to § 87(2)(b). Absent additional testimony or documentation, contact could not be established with § 87(2)(b) and an official statement was not obtained.

NYPD Statement

Subject Officer: PO MAURICE FYFFE

- *PO Maurice Fyffe is a § 87(2)(b). He is assigned to the 79th Precinct.*
- *On June 16, 2009, PO Fyffe worked from 7:05am to 3:40pm with PO Oscar Palomino. He was assigned to patrol Sector DIP in marked patrol car, number 1581, and was dressed in uniform.*

§ 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Memo Book

PO Maurice Fyffe's memo book entries from June 16, 2009 stated that at 8:18am, PO Fyffe issued an A-summons for a vehicle that was blocking the hospital driveway and not did not allow an emergency vehicle to exit. At 8:18am, PO Fyffe recorded that he signaled the driver to move his vehicle with the horn, which the driver ignored. PO Fyffe issued a C-summons for creating a scene. According to PO Fyffe's memo book, the driver stated that he and family members were "on the job" and that PO Fyffe could not issue him a ticket. PO Fyffe's memo book further states that the driver told PO Fyffe he was "Picking on him because he was white" (encl. 11a-c).

CCRB Testimony

On September 11, 2009, PO Maurice Fyffe was interviewed at the CCRB (encl. 12a-b). On June 16, 2009, at approximately 8:18am, PO Fyffe and PO Oscar Palomino were in their patrol car with PO Andy Scantlebury and an officer whom he was unable to identify (PO1), and were attempting to exit the driveway of § 87(2)(b) Hospital, located at 755 Flushing Avenue in Brooklyn. PO Fyffe, who was assigned as the operator of the patrol car, observed a vehicle, known through the investigation to be operated by § 87(2)(b) blocking the path of the emergency exit ramp. PO Fyffe waited for a few seconds to allow § 87(2)(b) to move his vehicle. As § 87(2)(b) did not move, PO Fyffe honked the horn to indicate to § 87(2)(b) to move his vehicle. § 87(2)(b) ignored PO Fyffe, who again honked the horn, but § 87(2)(b) continued to ignore him.

After approximately 30 seconds, PO Fyffe and PO Palomino exited the patrol car and approached § 87(2)(b). PO Fyffe informed § 87(2)(b) that he was going to issue him a summons for § 87(2)(a) 160.50. § 87(2)(b) became upset and told PO Fyffe, "You're not in a rush, there is no emergency, you can wait for me to move." PO Fyffe did not verbally respond to § 87(2)(b) but rather began to write out the summons. § 87(2)(b) attempted to move his vehicle out of the path of the exit ramp, but did not clear the path of traffic before exiting his vehicle. He remained upset and yelled at PO Fyffe, who was unable to recall

what statements § 87(2)(b) made. PO Scantlebury and PO1 exited the patrol car, but did not approach or interact with § 87(2)(b) at any time.

As PO Fyffe was writing the summons to § 87(2)(b) an emergency vehicle attempted to exit the ramp, but was still blocked by § 87(2)(b)'s vehicle. § 87(2)(b) moved his vehicle a second time to allow the vehicle to exit. § 87(2)(b) remained irate and yelled at PO Fyffe, stating, "You're picking on me because I'm white." PO Palomino told § 87(2)(b) to calm down. PO Fyffe did not use profanity and he specifically did not call § 87(2)(b) a "fucking idiot" or a "piece of shit," and did not observe any other officer do so. PO Fyffe stated that § 87(2)(b)'s behavior caused a scene, as several members of the hospital staff stopped to watch, prompting PO Fyffe to also issue § 87(2)(b) a summons for § 87(2)(a) 160.50. After handing the summonses to § 87(2)(b) the officers left the location.

Witness Officers: PO OSCAR PALOMINO; PO ANDY SCANTLEBURY

- *PO Palomino is a § 87(2)(b). He is assigned to the 79th Precinct.*
- *On June 16, 2009, PO Palomino worked from 7:05am to 3:40pm with PO Maurice Fyffe, and was assigned to patrol Sector DIP. He was dressed in uniform and was assigned to a marked patrol car, number 1581.*
- *PO Andy Scantlebury is a § 87(2)(b). He is assigned to the 79th Precinct.*
- *On June 16, 2009, PO Scantlebury worked from 7:05am to 3:40pm and was not assigned to work with a partner nor was he assigned to a motor vehicle. He was assigned to Post 80, and was dressed in uniform.*

Memo Books

PO Palomino's memo book entries from June 16, 2009 state that at 8:18am, he observed a vehicle blocking a hospital driveway and not allowing emergency vehicle out of the hospital. PO Palomino recorded that he requested driver to move, but the driver ignored his orders. PO Palomino requested again that the driver move and his memo book indicated that the driver was given a summons for § 87(2)(a) 160.50. PO Palomino stated that the operator was PO Fyffe (encl. 7a-c).

PO Scantlebury's memo book entries from June 16, 2009 indicate that at 8:18am, he arrived at § 87(2)(b) Hospital with Sector DIP of the 79th Precinct, picking up one officer in route to Post 80 (encl. 9a-b).

CCRB Testimony

On September 11, 2009, PO Oscar Palomino and PO Andy Scantlebury were interviewed at the CCRB (encl. 8a-b, 10a-b). Their statements are generally consistent with that of PO Maurice Fyffe, with the following additions and exceptions.

PO Scantlebury was unable to recall a fourth officer present during the incident, and PO Palomino was unable to recall the identity of the fourth officer. Although PO Palomino was consistent in that PO Fyffe honked twice to indicate to § 87(2)(b) to move his vehicle, PO Scantlebury stated that PO Fyffe used the patrol car siren. PO Palomino added that he told § 87(2)(b) to calm down. PO Scantlebury stated that, because he was inside of the vehicle, he was unable to discern any conversation that took place between PO Fyffe, PO Palomino and § 87(2)(b). PO Scantlebury added that he told § 87(2)(b) that he would not receive a summons had he not blocked the emergency exit.

Both PO Palomino and PO Scantlebury stated that § 87(2)(b) raised his voice and caused a crowd to form. PO Palomino added that while individuals are typically upset upon receiving a summons, § 87(2)(b)'s behavior exceeded that which was necessary and caused a

crowd of approximately 10 to 12 people to stop to observe the incident. Neither PO Palomino nor PO Scantlebury used profanity, and specifically did not call § 87(2)(b) “a fucking idiot” or “a piece of shit,” nor did they observe any other officer do so.

PO Fyffe issued two summonses to § 87(2)(b) for blocking the emergency exit and for disorderly conduct. Upon issuing the summonses to § 87(2)(b) the officers returned to their patrol car and left the location.

Additional Officers

Although § 87(2)(b) indicated that four officers were present during the incident, neither PO Fyffe nor PO Palomino were able to identify this officer and PO Scantlebury did not recall a fourth officer present. The 79th Precinct roll call from June 16, 2009 (encl. 14a-q), nor the memo book entries of PO Fyffe, PO Palomino, and PO Scantlebury revealed the identity of this officer (encl. 7a-c, 9-b, 11a-c). Absent additional testimony and documentation, this officer could not be identified and his statement was not obtained.

NYPD Documents

79th Precinct Roll Call

The 79th Precinct roll call from June 16, 2009 confirmed that PO Maurice Fyffe and PO Oscar Palomino were on duty and were assigned to patrol Sector DIP in vehicle 1581. The roll call further confirmed that PO Andy Scantlebury was on duty and assigned to foot post number 80 (encl. 14a-q).

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

§ 87(2)(c)

§ 87(2)(c)

Civilians CCRB History

- § 87(2)(b)

Subject Officer's CCRB History

- Officer Fyffe has been a member of service for five years and there is one substantiated CCRB allegation against him (encl. 1a-b):
 - In CCRB case 200613946, an allegation of a strip-search was substantiated for which Command Discipline “B” was imposed by the NYPD.

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date